

## NOTICE OF RULEMAKING HEARING

### DEPARTMENT OF COMMERCE AND INSURANCE - 0780 LOCKSMITH LICENSING PROGRAM

There will be a hearing before the Advisory Committee of the Locksmith Licensing Program to consider the promulgation of rules pursuant to Chapter 885 of the Public Acts of 2006 and T. C. A. § 62-11-101, et seq. [effective July 1, 2007]. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in the Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway in the Davy Crockett Towner, in Nashville, Tennessee at 9:00 a.m. (Central Time) on the 23rd day of February, 2007.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5<sup>th</sup> Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact Peggy Smith, Locksmith Licensing Program, 500 James Robertson Parkway, 2<sup>nd</sup> Floor, Nashville, Tennessee 37243 at (615) 532-9164.

## SUBSTANCE OF PROPOSED RULES

### CHAPTER 0780-5-13 LOCKSMITHS

#### NEW RULES

#### TABLE OF CONTENTS

0780-5-13-.01	Purpose
0780-5-13-.02	Definitions
0780-5-13-.03	Application for License or Registration
0780-5-13-.04	Application Requirements
0780-5-13-.05	Renewal of Licenses and Registrations
0780-5-13-.06	Fees
0780-5-13-.07	Qualifying Education
0780-5-13-.08	Experience
0780-5-13-.09	Continuing Education
0780-5-13-.10	Qualifying and Continuing Education Providers
0780-5-13-.11	Civil Penalties
0780-5-13-.12	Submission of Information
0780-5-13-.13	Standards of Practice
0780-5-13-.14	Code of Conduct

#### **0780-5-13-.01 PURPOSE.**

The rules in this chapter implement the Locksmith Licensing Act of 2005, T.C.A. § 62-11-101 et seq.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 1 and 7 and T.C.A. §§ 62-11-101 and 62-11-106 [effective July 1, 2007].

## **0780-5-13-.02 DEFINITIONS.**

In addition to the definitions contained in T.C.A. § 62-11-103, the following definitions are applicable to this chapter:

- (1) "Access control" means mechanical locks that have an integral alarm as part of their design without electrical components and electro-mechanical locks such as self-contained, low voltage exit alarm devices that secure a single entry point, which are not part of an integrated system. Nothing in these rules shall exempt any locksmith from complying with the Alarm Contractors Licensing Law and Rules;
- (2) "Automotive work" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing a special locking system, mechanical locking device or electrical locking devices for controlled access to vehicles;
- (3) "Branch office" means any office of a locksmith company within this state other than its principal place of business within this state;
- (4) "Commissioner" means the commissioner of commerce and insurance;
- (5) "Continuing education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal of a license as a locksmith;
- (6) "Conviction" means and includes the entry of a plea of guilty, plea of no contest or a verdict rendered in open court by a judge or jury;
- (7) "General locksmithing" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing locks or other devices for access to structures and personal property;
- (8) "Good moral character" means an individual with high legal, moral and ethical values, the following shall be prima facie evidence that an individual does not have good moral character:
  - (a) Conviction by any local, state, federal or military court of any crime involving the illegal use, possession, sale manufacture, distribution or transportation of a controlled substance, drug, or narcotic;
  - (b) Conviction of a crime involving felonious assault;
  - (c) Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or arson;
  - (d) Conviction as a habitual criminal; or
  - (e) An addiction to alcohol or a narcotic drug;
- (9) "Instructor" means an individual who presents course materials approved for qualifying education and continuing education credit hours that has the necessary experience, training or education in the course subject matter and has been approved by the commissioner;
- (10) "Licensee" means an individual who holds a current, unexpired license as a locksmith issued by the commissioner;
- (11) "Locksmith company" means any person or entity engaging in the business of providing or undertaking to provide locksmithing services for another person;

- (12) "Locksmith student" means any individual who is enrolled in a locksmith training program pursuant to 0780-5-13-.07;
- (13) "Locksmith training program" means a course or courses or an apprenticeship program given in preparation for licensure as a locksmith;
- (14) "Motor vehicle" shall have the same meaning as set forth in T.C.A. § 55-17-102(15);
- (15) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
- (16) "Person" means an individual, firm, association, governmental entity, or other legal entity;
- (17) "Qualifying agent" means any person licensed by the commissioner as a locksmith who is immediately responsible for the operation of a branch office;
- (18) "Qualifying education" means education that is creditable toward the education requirements required for initial licensure as a locksmith or apprentice locksmith;
- (19) "Registrant" means an individual who holds a current, unexpired registration as a locksmith apprentice issued by the commissioner or a company who holds a current, unexpired registration as a locksmith company issued by the commissioner;
- (20) "Safe and vault work" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing a special locking system, mechanical locking device or electrical locking devices for controlled access or egress to safes, vaults, safe doors, lock boxes, automatic teller machines, or other devices for safeguarding areas;
- (21) "Structure" means any building or improvement and its components, systems, fixtures and appurtenances.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 4 and 7 and T.C.A. §§ 62-11-103 and 62-11-106 [effective July 1, 2007].

### **0780-5-13-.03 APPLICATION FOR LICENSE OR REGISTRATION.**

- (1) Any person who seeks to be licensed as a locksmith in any category, registered as an apprentice locksmith, or registered as a locksmith company shall complete an application on a form prescribed by the commissioner and submit the completed application to the commissioner.
- (2) Applications for licensure or registration are available upon request from the commissioner.
- (3) All applications for licensure, registration and renewal shall be submitted on the form prescribed by the commissioner for this purpose and shall be accompanied by the following supporting documents:
  - (a) Acceptable identification, which includes at least one (1) of the following:
    - 1. A driver's license or non-driver's ID issued by the State Department of Motor Vehicles; or
    - 2. A valid passport; or

3. A resident alien card or green card; or
  4. A license or permit issued by a government agency; or
  5. If the applicant is a city, state, or federal employee, an employee identification card.
- (b) Two (2) completed fingerprint cards or a copy of the receipt for electronically scanned prints. Fingerprints must be rolled nail to nail by a qualified, trained technician on the fingerprint cards provided by this office. The cards must be fully completed and signed and all questions in the blocks at the top of the card must be answered.
  - (c) Two (2) frontal photographs of the applicant's face taken within the preceding three (3) months, the size of which must be one (1) inch by one (1) inch and must include the applicant's name and social security number on the back of each photograph.
  - (d) All applications for a locksmith company registration shall also include the following:
    1. The name, date of birth, residence, present and previous occupations of the qualifying agent and each member, officer or director of the business firm;
    2. The address of the principal place of business of the firm and the location of all branch offices as well as the qualifying agent for each branch office, if applicable;
    3. Evidence of general liability insurance and insurance coverage as set forth in T.C.A. § 62-11-108; and
    4. A certified check or money order in the amount of the application as set forth in Rule 0780-5-13-.06.
  - (4) Any application submitted which lacks required information or reflects a failure to meet any requirement for licensure or registration will be held by the program office with written notification of the information that is lacking or the reason(s) the application does not meet the requirements for licensure sent to the applicant. The application will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed sixty (60) days from the date of application. If the applicant fails to respond to the written notification the application will be closed and the applicant must reapply.
  - (5) Any application submitted may be withdrawn; provided, however, that the application fee will not be refunded.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 7, 9, 12, 13, and 15 and T.C.A. §§ 62-11-106, 62-11-108, 62-11-111, 62-11-112 and 62-11-114 [effective July 1, 2007].

#### **0780-5-13-.04 APPLICATION REQUIREMENTS.**

- (1) Beginning immediately upon the effective date of these rules, and continuing until July 1, 2007, any person who desires to make application to obtain a license as a locksmith in any category or a registration as a locksmith company shall submit an application to the commissioner, along with the required application and license fee, and provided that the applicant meets the requirements set forth in T.C.A. § 62-11-111(a) and (b) and demonstrates to the satisfaction of the commissioner not less than two (2) years experience in the locksmithing business, or an equivalent amount of certified education or apprenticeship.

- (2) Beginning July 1, 2007, any person who desires to obtain a license as a locksmith in any category, a registration as an apprentice locksmith, or a registration as a locksmith company shall submit an application to the commissioner, along with the required application and license fee and shall comply with T.C.A §§ 62-11-111 or 62-11-112.
- (3) Applications will not be considered filed until the applicable fee prescribed in these rules is received.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 7 and 16 and T.C.A. §§ 62-11-106 and 62-11-115 [effective July 1, 2007].

#### **0780-5-13-.05 RENEWAL OF LICENSES AND REGISTRATIONS.**

- (1) Licenses and certificates of registration shall expire on the last day of the twenty-fourth (24<sup>th</sup>) month following their issuance or renewal, and shall become invalid on such date unless renewed.
- (2) Renewals must be received in the office of the commissioner thirty (30) days prior to the expiration of such certificate. Renewals received after the thirtieth (30<sup>th</sup>) day prior to expiration of such certificate will be deemed late and subject to a late penalty.
- (3) Licenses and registrations granted shall be staggered in accordance with T.C.A. § 56-1-302(b).
- (4) An individual or company choosing not to renew his, her or its license or registration shall notify the commissioner of his, her or its intention prior to the expiration of that license or registration, and shall surrender the license or registration to the commissioner immediately upon its expiration.
- (5) Applications for the renewal of licensees and registrations pursuant to the Act shall be made on a form provided by the commissioner. Applications for renewals will not be considered filed until the applicable fee prescribed in these rules is received.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 7, 12 and 13 and T.C.A. §§ 62-11-106, 62-1-111 and 62-1-112 [effective July 1, 2007].

#### **0780-5-13-.06 FEES.**

- (1) Nonrefundable locksmith application fee.....\$100.00
- (2) Initial locksmith license fee..... \$200.00
- (3) Nonrefundable locksmith apprentice application fee..... \$50.00
- (4) Initial locksmith apprentice registration fee.....\$100.00
- (5) Nonrefundable locksmith company application fee..... \$50.00
- (6) Initial locksmith company registration fee..... \$100.00
- (7) The examination fee for licensure as a locksmith will be set by the entity designated by the State to administer the examination.

- (8) Addition of locksmith classification (per classification).....\$25.00
- (9) Renewal fee for locksmith license.....\$200.00
- (10) Renewal fee for apprentice registration.....\$100.00
- (11) Renewal fee for locksmith company registration.....\$100.00
- (12) The late renewal penalty fee is ten percent (10%) of the applicable renewal fee for each month or fraction of a month that the renewal is late.
- (13) Fingerprint fee is \$48.00 or as set by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.
- (14) Identification card fee..... \$50.00
- (15) Identification card replacement fee..... \$25.00
- (16) Transfer fee..... \$25.00

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 7, 2, 13 and 15 and T.C.A. §§ 62-11-106, 62-11-111, 62-11-112 and 62-11-114 [effective July 1, 2007].

#### **0780-5-13-.07 QUALIFYING EDUCATION.**

- (1) An applicant seeking licensure as a general locksmith shall obtain a total of at least of thirty (30) hours of basic education with at least one (1) hour in each of the following subjects:
  - (a) Vehicle lock service;
  - (b) Cylinder servicing, high security cylinders and pin and wafer tumbler cylinders;
  - (c) Exit hardware and door closers;
  - (d) Lock set functions and installations;
  - (e) Lock opening techniques;
  - (f) Lock codes and code cutting equipment;
  - (g) Master keying;
  - (h) Safe combination locks;
  - (i) Access control; and
  - (j) Tennessee locksmith laws and rules.
- (2) An applicant seeking licensure under the category of safe and vault work shall also complete a total of eight (8) hours of education in any of the following subjects:
  - (a) Safe servicing;

- (b) Safe penetration; and
  - (c) Safe government service administration (GSA) containers.
- (3) An applicant seeking licensure under the category of automotive work shall also complete a total of eight (8) hours of education in any of the following subjects:
  - (a) Auto openings;
  - (b) Key generation; and
  - (c) Electronic keys.
- (4) An applicant seeking licensure under the category of access control shall also complete a total of eight (8) hours of education in any of the following subjects:
  - (a) Masterkeying;
  - (b) Interchangeable core;
  - (c) Electronic single point access; and
  - (d) High security.

**Authority:** Chapter 885 of the Public Acts of 2006, § 7 and T.C.A. § 62-11-106 [effective July 1, 2007].

#### **0780-5-13-.08 EXPERIENCE.**

- (1) An applicant seeking licensure as a locksmith under the general locksmithing category shall obtain forty (40) hours of experience prior to submitting an application for licensure.
- (2) An applicant seeking licensure as a locksmith under the access control category shall obtain ten (10) hours of experience prior to submitting an application for licensure.
- (3) An applicant seeking licensure as a locksmith under the safe and vault work category shall obtain ten (10) hours of experience prior to submitting an application for licensure.
- (4) An applicant seeking licensure as a locksmith under the automotive work category shall obtain ten (10) hours of experience prior to submitting an application for licensure.
- (5) Prior to July 1, 2007, the commissioner shall accept proof of the required two (2) years experience by providing at least two (2) of the following:
  - (a) Business license;
  - (b) Federal tax ID;
  - (c) Sales tax receipt; and
  - (d) Letter from employer on employer's letterhead stating the applicant's experience.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 7 and 16 and T.C.A. §§ 62-11-106 and 62-11-115 [effective July 1, 2007].

**0780-5-13-.09 CONTINUING EDUCATION.**

- (1) Continuing Education Credits.
  - (a) As a prerequisite to renewal, a licensee shall obtain twelve (12) hours of continuing education for each biennial renewal period.
  - (b) A licensee who completes more than twelve (12) hours of continuing education credits in a biennial renewal period may carry over a maximum of four (4) hours into the next renewal period.
  - (c) A licensee shall obtain continuing education credits from any of the following sources:
    1. Successful completion of continuing education courses approved by the commissioner;
    2. Participation in developing curriculum for a qualifying education or continuing education program or course;
    3. Teaching a qualifying education or co-teaching in a continuing education program or course, limited to six (6) hours per biennial renewal period;
    4. Authorship of a textbook or manual directly related to locksmithing services, limited to six (6) hours per biennial renewal period; or
    5. Authorship of a published article related to locksmithing services, limited to four (4) hours per article and two (2) articles per biennial renewal period.
  - (d) The commissioner may waive the continuing education requirements upon request by the licensee by showing good cause for the waiver, including but not limited to reasons such as illness, disability, or military service.
  - (e) The licensee seeking a waiver of continuing education requirements shall request the waiver in writing to the commissioner at least ninety (90) days prior to the licensee's renewal date.
- (2) Exemption to continuing education requirements for one (1) twelve (12) month period per renewal cycle may be granted if applied for in writing on the form prescribed by the commissioner for this purpose for the following reasons:
  - (a) A licensee serving on temporary active duty in the armed forces of the United States for a period exceeding one hundred twenty (120) consecutive days within the year.
  - (b) A licensee experiencing physical disability or illness if supporting documents are submitted to approved by the commissioner. Such documentation shall be in the form of a statement from a physician or medical records which show that the disability or illness prevented the licensee's participating in a course in which the licensee has enrolled or prevented the licensee's participation in the continuing education program for at least one hundred twenty (120) consecutive days in a year.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 7 and 12 and T.C.A. §§ 62-11-106 and 62-11-111(i) [effective July 1, 2007].



**0780-5-13-.10 QUALIFYING AND CONTINUING EDUCATION PROVIDERS.**

(1) Course approval requirements.

- (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application on a form prescribed by the commissioner and submit to the commissioner any documents, statements and forms as the commissioner may require. The complete application shall be submitted to the commissioner no later than thirty (30) days prior to the scheduled date of the course. At a minimum, a person or entity seeking approval to conduct a course for qualifying or continuing education shall provide:

1. Name and address of the provider;
2. Contact person and his or her address, telephone number, fax number and email address;
3. The location of the courses or programs;
4. The number and type of education credit hours requested for each course;
5. Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;
6. If a prior approved course has substantially changed, a summarization of the changes; and
7. The names and qualifications of each instructor who is qualified in accordance with paragraph (2) of this rule.

(b) Acceptable topics include, but are not limited to:

1. Life Safety Codes;
2. Building Codes;
3. Americans with Disabilities Act;
4. Master Keying;
5. Key Records and Codes;
6. Key Blanks and Keyways;
7. Product Liability;
8. Professional Installations; and
9. Tennessee locksmith laws and rules.

- (c) The commissioner may withhold or withdraw approval of any provider for violation of or failure to comply with any provision of this rule. Such withholding or withdrawal does not constitute a contested case proceeding pursuant to the Uniform Administrative Procedures Act compiled at T.C.A. Title 4, Chapter 5.

- (d) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the commissioner. Such person or entity may indicate that the commissioner has approved a course of study if that course of study has been pre-approved by the commissioner before it is advertised or held.
  - (e) Within five (5) working days after the completion of each course, the provider shall submit to the commissioner a list of all attendees, including, if applicable, the attendees' license numbers, who completed the course on the course completion form approved by the commissioner. If the course is for continuing education, each licensee successfully completing the course shall be furnished a certificate certifying completion.
  - (f) Providers shall maintain course records for at least five (5) years. The commissioner may at any time examine such records to ensure compliance with this rule.
- (2) Instructor qualifications and requirements. A person seeking approval as an instructor shall submit an application on a form prescribed by the commissioner. If granted, the approval as an instructor shall be valid for a period of two (2) years from the date of the approval.
- (a) An instructor shall have one of the following qualifications:
    - 1. Three (3) years of recent experience in the subject matter being taught; or
    - 2. A minimum of an associates degree in the subject area being taught; or
    - 3. Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught; or
    - 4. Other educational, teaching or professional qualifications determined by the commissioner which constitute an equivalent to one (1) or more of the qualifications in parts (2)(a)1., 2., and 3. of this rule.
  - (b) In order to maintain approved status, an instructor shall furnish evidence on a form approved by the commissioner that the instructor has taught a commissioner-approved course, or any other course for qualifying or continuing education credit that the commissioner determines to be equivalent, within the preceding two (2) year period. Any instructor who does not meet the requirements of this subparagraph (2)(b) shall be required to submit a new application in accordance with subparagraph (2)(a) above.
  - (c) All instructors shall furnish a log, on a form prescribed by the commissioner, of all continuing education classes taught during the previous license period, a list of the names of the students enrolled in the classes, the dates, the number of hours and a brief description of the subject matter included in the course or program.
- (3) If a licensee who is not a resident of Tennessee satisfies a continuing education requirement for renewal of a license as a locksmith in the licensee's resident state, the licensee will be deemed to have met the continuing education requirement for Tennessee; provided, the continuing education requirements in the licensee's resident state are at least equivalent to the continuing education requirements in Tennessee. In order for the licensee to be deemed to have met the requirement, the licensee must file with the license renewal a certificate from the licensee's resident state certifying that the licensee has completed the continuing education requirement for licensure in that state. The certificate from the licensee's resident state verifying compliance with continuing education in the resident state must be received by the commissioner no later than thirty (30) days prior to the expiration date of the license.

**Authority:** Chapter 885 of the Public Acts of 2006, § 7 and T.C.A. § 62-11-106 [effective July 1, 2007].

**0780-5-13-.11 CIVIL PENALTIES.**

- (1) With respect to any licensed locksmith, registered apprentice locksmith, or registered locksmith company, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee or registrant for each separate violation of a statute, rule or commissioner's order pertaining to locksmiths and apprentice locksmiths, in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-11-109	\$100 - \$5,000
(b) Rule 0780-5-13-.12	\$100 - \$5,000
(c) Rule 0780-5-13-.13	\$100 - \$5,000
(d) Rule 0780-5-13-.14	\$100 - \$5,000
(e) Commissioner's order	\$100 - \$5,000

- (2) With respect to any person required to be licensed in this state as a locksmith or registered as an apprentice locksmith or locksmith company, the commissioner may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-11-104	\$1000 - \$5,000

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of any penalty to be assessed pursuant to this rule, the commissioner may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk of harm to the public;
  - (d) The economic benefits gained by the violator as a result of noncompliance;
  - (e) The interest of the public; and
  - (f) Willfulness of the violation.

**Authority:** Chapter 885 of the Public Acts of 2006, §§ 5 and 10 and T.C.A. §§ 56-1-308, 62-11-104, 62-11-106, 62-11-109 and 62-11-110 [effective July 1, 2007].

**0780-5-13-.12 SUBMISSION OF INFORMATION.**

- (1) A licensee or registrant shall inform the commissioner in writing of any arrest or conviction within thirty (30) days after the arrest or conviction occurs.
- (2) A licensee or registrant shall inform the commissioner in writing of any change in residential or business address within thirty (30) days before the change occurs or as soon as practicable.

- (3) A qualifying agent on behalf of a locksmith company or a licensee shall inform the commissioner in writing of any change in his or her locksmithing business name, change in the business structure, or opening of a branch office within thirty (30) days before the change occurs or as soon as practicable. Locksmith company registrations and licenses are non-transferable.
- (4) A licensee or registrant shall submit a Transfer Notice on the form prescribed by the commissioner containing the name of the current or previous employer and the name of the current or prospective employer along with two (2) color passport-style photos, identification card fee, and the Transfer Fee within ten (10) days of obtaining employment with another locksmithing company.
- (5) A licensee or registrant shall inform the commissioner in writing if he/she has had his/her license or registration disciplined in another state within thirty (30) days after the licensee or registrant was disciplined.

**Authority:** Chapter 885 of the Public Acts of 2006, § 7 and T.C.A. § 62-11-106 [effective July 1, 2007].

#### **0780-5-13-.13 STANDARDS OF PRACTICE.**

- (1) Standards of Practice. This rule sets forth the minimum standards of practice required of licensed locksmiths, registered locksmith apprentices, and registered locksmith companies and is applicable to licensees and registrants.
- (2) Client Identification and Authorization.
  - (a) A licensee or registrant shall perform the following before providing a client with locksmithing services:
    1. identify and document the person who ordered the locksmithing services as the licensee's client before commencing any locksmithing services;
    2. establish and record the client's authorization to order the locksmithing services to be provided;
    3. obtain the client's authorization in writing by having the client or the client's authorized agent sign an authorization or work order providing that the client or authorized agent is assuming full responsibility and liability for the locksmithing services ordered; and
    4. ensure that the client or the client's authorized agent is physically present at the location where the locksmithing services will be performed.
- (3) Confidentiality.
  - (a) A licensee or registrant shall address all correspondence, contracts, work orders, invoices, and bills relating to locksmithing services performed directly to the client unless the client expressly directs the licensee to do otherwise;
  - (b) A licensee or registrant shall deliver security information and devices, including but not limited to, keys, access cards, codes, key biting arrays, and file keys to the client or the client's authorized agent; and
  - (c) A licensee or registrant shall maintain the confidentiality of any information obtained from a client in the course of performing locksmithing services.

(5) Recordkeeping Requirements.

- (a) A licensee or registrant shall retain copies of all client contracts, authorizations, work orders, invoices and bills for three (3) years from the date the work was performed.

(6) Duties and Responsibilities.

- (a) A licensee or registrant shall comply with all applicable federal, state and local laws and codes in providing locksmithing services.
- (b) A licensee or registrant shall ensure random, complete, and qualified recombination of cylinders, combination locks and access control systems for optimal security maintenance.
- (c) A licensee or registrant shall keep clients reasonably informed about the status of a locksmithing job being performed for that client and shall promptly comply with reasonable requests for information.
- (d) Any request for additional information or upon receipt of any written complaint against the licensee or registrant, such party shall, within fourteen (14) days, file a written answer to the request for additional information or to the complaint with the commissioner.
- (e) A licensee or registrant shall place the license or registration number on all business cards and all advertising which contain the licensee's or registrant's name.
- (f) A locksmith company shall:
  - 1. Maintain at least one business office within the state or file with the commissioner a statement duly executed and sworn to before a person authorized by the laws of Tennessee to administer oaths, containing a power of attorney constitution the Secretary of State as the true and lawful attorney of the licensee upon whom all original process in an action or legal proceedings against the licensee may be served and in which the licensee agrees that the original process that may be served upon the Secretary of State shall be of the same force and validity as if served upon the licensee and the authority thereof shall continue in force so long as the licensee engages in the practice of locksmithing in the State;
  - 2. Clearly mark the outside of each installation and service vehicle to be used in conjunction with the locksmithing service as set forth in T.C.A. § 62-11-116 and place the locksmith company license number on all business cards, letterhead, and all advertising;
  - 3. Retain and maintain the term of the license general liability insurance as set forth in T.C.A. § 62-11-108;
  - 4. Be responsible, along with the qualifying agent, for any unlawful or unprofessional conduct by an employee in the course of his/her employment. Such conduct shall be cause for suspension or revocation of the company's registration or the qualifying agent's locksmith license and/or the assessment of civil penalties against the locksmith company or qualifying agent if it is established that the locksmith company or the qualifying agent had knowledge of the unlawful or unprofessional conduct, or that there existed a pattern of unlawful or unprofessional conduct;
  - 5. Notify the commissioner in writing of the opening of a branch office as well as the name of the qualifying agent responsible for the branch office no later than fourteen (14) days prior to the opening of the branch office.

(6) Prohibited Activities.

- (a) No licensee or registrant shall perform work in any structure or on any personal property without the client's written authorization or written authorization from the client's agent.
- (b) No licensee or registrant shall perform locksmithing services on any structure or personal property when there is a dispute as to the ownership of that structure or personal property.
- (c) A licensee or registrant shall not create or attempt to create a key for a master keyed lock unless the licensee or registrant obtains written authorization from the owner of the master key system or the owner's authorized agent.
- (d) A licensee or registrant shall not expand or attempt to expand any master keyed system without first obtaining a list of all key bittings. If this cannot be obtained, then the lock shall be keyed as SKD or a new master key system shall be generated.
- (e) No licensee or registrant shall work for or be employed by a locksmith company without first filing notice with the commissioner on the initial application or on the prescribed Transfer Notice.
- (f) No licensee or registrant shall allow any employee not licensed as a locksmith or registered as a locksmith apprentice to have access to any locksmithing tools.
- (g) No licensee or registrant shall list an address in any manner if the locksmith does not actually have a business located at that address.

**Authority:** Chapter 885 of the Public Acts of 2006, § 7 and T.C.A. § 62-11-106 [effective July 1, 2007].

**0780-5-13-.14 CODE OF CONDUCT.**

- (1) Licensees or registrants shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.
- (2) A licensee or registrant shall not use improper or questionable methods of soliciting business and shall not pay another person or accept payment from another person for engaging in these improper methods.
- (3) A licensee or registrant shall not associate his/her individual or business name with any business or event that engages in or attempts to engage in misrepresentation.
- (4) A licensee or registrant shall not disclose any client information obtained relative to locksmithing services performed to someone other than the client unless the disclosure is expressly authorized in writing by the client.
- (5) A licensee or registrant shall not misrepresent his/her locksmithing services, the features of any product, or make unwarranted claims about the merits of a product or a service that the licensee offers.
- (6) No licensee or registrant shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.

- (7) No licensee or registrant shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.
- (8) Before the execution of a contract to perform locksmithing services, a licensee or registrant shall disclose to the client any interest in a business that may affect the client. No licensee or registrant shall allow his or her interest in any business to affect the quality or results of the locksmithing work that the licensee or registrant may be called upon to perform.
- (9) Licensees and registrants shall not engage in false or misleading advertising.
- (10) A licensee or registrant shall not perform or recommend any locksmithing services that would violate applicable federal, state or local laws, or codes or pose a threat to public safety.

**Authority:** *Chapter 885 of the Public Acts of 2006, § 7 and T.C.A. § 62-11-106 [effective July 1, 2007].*

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 15th day of December, 2006. (12-18-06)